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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,197	07/01/2000	John B. Ferber	2580-001	6838

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EXAMINER

LAFORGIA, CHRISTIAN A

ART UNIT

PAPER NUMBER

2131

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<p align="center"><b>Office Action Summary</b></p>	<b>Application No.</b> 09/610,197	<b>Applicant(s)</b> FERBER ET AL.	
	<b>Examiner</b> Christian La Forgia	<b>Art Unit</b> 2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5 and 7-20 is/are allowed.
- 6) ☒ Claim(s) 21-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)<br>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)<br>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____<br>5) <input type="checkbox"/> Notice of Informal Patent Application<br>6) <input type="checkbox"/> Other: _____ |
|---|--|

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 January 2007 has been entered.
2. Claims 2-5 and 7-30 have been presented for examination.
3. Claims 1 and 6 have been cancelled as per Applicant's request.
4. Claims 2-5, and 7-20 have been indicated as allowable as of the Office Action of 31 March 2005.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 21-30 have been considered but are moot in view of the new grounds of rejection.
6. See further arguments that follow.

### ***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 21-30 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. In order for a claim to satisfy the requirements of 35 U.S.C. 101, the claimed invention must "transform" an article or a physical object to a different state or thing and produce a useful, concrete, and tangible result. See section IV(C)(2) of the "Interim Guidelines

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for Examination of Patent Applications for Patent Subject Matter Eligibility.” The invention of independent claims 21 and 25 does not provide for a transformation of an article or physical object as it is merely manipulating data and performing mathematical calculations. The claim fails the second part of the test of the requirements in that it fails to produce a useful, concrete, and tangible result, such as storing the uncertainty of the click probably estimate or displaying an advertisement based on the uncertainty of the click probability estimate. As such the claim lacks utility and is therefore rejected under 35 U.S.C. 101.

***Claim Rejections - 35 USC § 103***

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 21-30 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 6,119,098 to Guyot et al., hereinafter Guyot, in view of U.S. Patent No. 6,006,197 to d'Eon et al, hereinafter d'Eon.

11. As per claim 21, Guyot discloses a computer-implemented method for selecting Internet advertisements for presentation, comprising:

establishing a customer profile for a customer, the customer profile including long-term attributes (data entered by subscriber) related to a category of advertisements of interest to the customer and short-term attributes related to a product of interest to the customer (recent web - sites visited) (column 2, lines 37-42, column 3, lines 60-65, column 6, lines 31-39); and

for an Internet advertisement,

using the long-term attributes and the short-term attributes to compute a click probability estimate representing a likelihood that the customer will respond to the Internet advertisement

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(column 1, line 56 to column 2, line 8, column 4, lines 15-23, i.e. provides advertisements to the 'client application' that are targeted to each individual subscriber, based on a personal profile by that subscriber, using the subscriber statistics to choose advertisements to be sent to the client).

12. Guyot discloses keeping track of the number of times an Internet advertisement has been displayed (column 2, lines 23-29) and using an estimate to determine whether to display an advertisement to the customer (column 1, lines 56-65), and taking action after the advertisement has been presented to the customer (column 11-23).

13. Guyot does not disclose determining an uncertainty of the click probability estimate and using the uncertainty to determine whether to present the Internet advertisement to the customer.

14. d'Eon discloses determining a conditional probability of a subsequent action by the user, which is drawn to the uncertainty of the click probability (column 1, lines 46-55, i.e. monitoring which advertisements customer's click through to the advertiser's website, monitoring which advertisements are the most effective at drawing client's the advertiser's website), and

after the Internet advertisement has been presented to the customer, adjusting the uncertainty of the click probability estimate (column 3, lines 7-36, i.e. adjusting the effectiveness depending on client's transactional activity).

15. Guyot and d'Eon are both drawn to target advertising based on at least user profiles.

16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to determine an uncertainty of the click probability estimate based at least in part on a number of times the advertisement has been displayed and using both the click probability estimate and the uncertainty to determine whether to present the advertisement to the customer,

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since d'Eon states at column 2, lines 39-43 that such a modification would provide for a cost-effective and easy to use method for assessing the effectiveness of Internet advertisements.

17. Regarding claim 22, Guyot teaches adjusting the customer profile based on types of advertisements previously responded to by the customer (column 4, lines 15-23, i.e. number of times each advertisement has been effectively displayed on the subscriber's system).

18. Regarding claim 23, Guyot teaches adjusting the customer profile based on Internet sites visited by the customer (column 2, lines 37-42, i.e. client application keeps track of Internet sites that the subscriber has accessed).

19. Regarding claims 24, 26, and 30, d'Eon teaches presenting the Internet advertisement to the customer (column 3, lines 23-28, i.e. user accesses website with internet advertisements),

receiving a response to the Internet advertisement from the customer (column 3, lines 7-17, i.e. transactional activity); and

updating the click probability estimate based on the customer's response (column 3, lines 28-37).

20. As per claim 25, Guyot discloses a computer-implemented method for optimizing Internet advertising selection, comprising:

creating a customer profile corresponding to a customer (column 2, lines 37-42, column 3, lines 60-65, column 6, lines 31-39);

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establishing an advertisement profile for each of a plurality of advertisements, each advertisement profile including an expected revenue based on potential placement of the corresponding advertisement (column 3, line 66 to column 4, line 23);

for each advertisement, using the customer profile to determine an estimated probability that the customer will respond to the advertisement (column 1, line 56 to column 2, line 8); and

selecting which of the plurality of advertisements to present to the customer based on the estimated probability of the customer responding to the advertisement (column 1, line 56 to column 2, line 8).

21. Guyot discloses keeping track of the number of times an Internet advertisement has been displayed (column 2, lines 23-29), and taking action after the advertisement has been presented to the customer (column 11-23).

22. Guyot does not disclose determining an uncertainty based on the amount of times the advertisement has been placed and placing the advertisement based on the probability of the customer responding, the expected revenue, and the measure of uncertainty, and after a selected advertisement has been presented to the customer, reducing the measure of uncertainty corresponding to the selected advertisement.

23. d'Eon discloses determining a conditional probability of a subsequent action by the user, which is drawn to the uncertainty of the click probability (column 1, lines 46-55, i.e. monitoring which advertisements customer's click through to the advertiser's website, monitoring which advertisements are the most effective at drawing client's the advertiser's website), and

placing the advertisement based on the probability of the customer responding, the expected revenue, and the measure of uncertainty (column 3, lines 23-28),

after a selected advertisement has been presented to the customer, reducing the measure of uncertainty corresponding to the selected advertisement (column 3, lines 7-36, i.e. adjusting the effectiveness depending on client's transactional activity).

24. Guyot and d'Eon are both drawn to target advertising based on at least user profiles.

25. It would have been obvious to one of ordinary skill in the art at the time the invention was made to determine an uncertainty of the click probability estimate based at least in part on a number of times the advertisement has been displayed and using both the click probability estimate and the uncertainty to determine whether to present the advertisement to the customer, since d'Eon states at column 2, lines 39-43 that such a modification would provide for a cost-effective and easy to use method for assessing the effectiveness of Internet advertisements.

26. Regarding claims 27-29, d'Eon teaches wherein the response is either a click selecting the advertisement, a request for more information, or a purchase of an item in the advertisement (column 3, lines 7-17).

### ***Conclusion***

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

28. The following patents are cited to further show the state of the art with respect to measuring the effectiveness of advertising, such as:

United States Patent No. 5,948,061 to Merriman et al., which is cited to show delivering, targeting, and measuring advertising over a network.

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United States Patent No. 7,010,497 to Nyhan et al., which is cited to show evaluating and monitoring the effectiveness of online advertising.

United States Patent No. 6,907,566 to McElfresh et al., which is cited to show optimizing placement of advertisements on a webpage and measuring their effectiveness based on said placement.

United States Patent No. 6,470,079 to Benson, which is cited to show reporting advertising effectiveness in real-time.

United States Patent No. 7,039,599 to Merriman et al., which is cited to show automatically placing internet advertisements.

United States Patent No. 6,216,129 to Eldering, which is cited to show selecting advertisements based on discretionary target market characteristics.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian La Forgia whose telephone number is (571) 272-3792.

The examiner can normally be reached on Monday thru Thursday 7-5.

30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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31. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christian LaForgia  
Patent Examiner  
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A handwritten signature in black ink, appearing to read 'CLF', with a large, stylized loop at the end.

clf